

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

FILED
U.S. DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION
2014 JAN 29 AM 9:22
CLERK OF COURT
1401 E. WASHINGTON ST.
INDIANAPOLIS, IN 46204

SWAG MERCHANDISING INC., a)
California corporation, DEVO INC.)
CORPORATION CALIFORNIA,)
a California corporation,)

Plaintiffs,)

v.)

T. V. STORE ONLINE, a Michigan)
Corporation; FRED HAJJAR,)

Defendants.)

CASE NO.

1 : 14 -cv- 0127 TWP -DKL

NOTICE OF REMOVAL

T. V. Store Online, correctly identified as Your Fantasy Warehouse, Inc., d/b/a TV Store Online, and Defendant Fred Hajjar (collectively "TV Store"), by counsel and pursuant to 28 U.S.C. §§ 1441 and 1446, hereby give notice of the removal of this action from the Hamilton Superior Court of Hamilton County, Indiana, and state as follows:

1) T. V. Store Online and Fred Hajjar are defendants in a civil action filed in and presently pending before the Hamilton Superior Court, State of Indiana, captioned *SWAG Merchandising Inc., a California corporation, DEVO Inc. Corporation California, a California corporation v. T. V. Store Online, a Michigan corporation and Fred Hajjar*, Cause Number 29D01-1312-CC-12054 (the "State

Court Action"). The State Court Action is a civil action within the meaning of the Acts of Congress relating to removal of cases.

2) The Complaint in the State Court Action was filed with the clerk of the Hamilton County Superior Court on December 31, 2013. TV Store received a copy of the Complaint and Summons on January 6, 2014.

3) This Notice of Removal is timely filed within thirty (30) days after Defendants received a copy of the Complaint. 28 U.S.C. § 1446(b)

4) Pursuant to 28 U.S.C. §1446(b), a copy of all process, pleadings and other papers received by Defendants in the State Court Action to date are attached hereto as Exhibit 1, which is incorporated herein by reference.

5) In the First through Fourth Causes of Action alleged in the Complaint, Plaintiffs state that they are bringing their causes of action, in part, pursuant to the Lanham Act, namely 15 U.S.C. §§ 1114, 1125(a) and 1125(c), among other things. *See* Complaint, ¶¶ 29-66.

6) This Court has original jurisdiction of the Federal claims alleged in the Complaint. 28 U.S.C. § 1331. Plaintiffs' causes of action arise under the Constitution, treaties or laws of the United States as set forth in 28 U.S.C. § 1441(a).

7) Plaintiffs also allege violations of state law, namely Indiana common law (Fifth and Eighth Causes of Action), certain Indiana statutory claims (Sixth Cause of Action, Ind. Code § 32-36-1 *et seq.*, Ninth Cause of Action, Ind. Code § 35-43-4-3, Deception, Ind. Code § 35-43-5-3(a)(6) and Eleventh Cause of Action, Ind.

Code § 35-24-3-1), N.Y. Gen. Bus. Law § 360-1 (Fourth Cause of Action)¹ and Cal. Civ. Code § 3344 (Seventh Cause of Action). These related state law claims form part of the same case or controversy as the federal claims, and this Court has supplemental jurisdiction over those state law claims. 28 U.S.C. § 1367.

8) This action is properly removable. 28 U.S.C. § 1441(a).

9) Written notice of the filing of this Notice of Removal is being served upon Plaintiffs' counsel, Theodore J. Minch, Sovich Minch LLP, 10500 Crosspoint Boulevard, Indianapolis, Indiana 46256, on this date.

10) TV Store will promptly file a copy of this Notice of Removal with the clerk of the Hamilton County Superior Court, Hamilton County, State of Indiana, as required by 28 U.S.C. § 1446(d).


11) Venue lies in the United States District Court, Southern District of Indiana, Indianapolis Division, because this action is being removed from the Hamilton County Superior Court, Hamilton County, State of Indiana.²

12) The undersigned attorney has been authorized by TV Store whom he represents to file this Notice of Removal.

¹ The Fourth Cause of Action purports to state claims under 15 U.S.C. § 1125(a) and N.Y. Bus. Law § 360-1).

² TV Store does not concede that the Southern District of Indiana is a proper venue forum as the Plaintiffs allege they are California corporations and the Defendants are Michigan residents who do not own or operate a business in the Southern District of Indiana.

Respectfully submitted,



Alastair J. Warr, Atty. No.15873-49
KRIEG DeVAULT LLP
One Indiana Square, Suite 2800
Indianapolis, Indiana 46204-2017
P: (317) 636-4341
F: (317) 636-1507
awarr@kdlegal.com

Attorneys for Defendants designated as T. V. Store
Online correctly identified as Your Fantasy
Warehouse, Inc. d/b/a TV Store Online and Fred
Hajjar

CERTIFICATE OF SERVICE

The undersigned counsel certifies that a copy of the foregoing Notice of Removal has been served upon the following by depositing a copy of the same in United States mail, first class postage prepaid, this 29th day of January, 2014:

Theodore J. Minch
Sovich Minch LLP
10500 Crosspoint Boulevard
Indianapolis, Indiana 46256



Alastair J. Warr

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